

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
RALEIGH DIVISION**

IN RE:	)	
	)	
ROBERT CHRISTIAN PEEL,	)	CHAPTER 7
	)	
	)	CASE NO. 09-04770-8-JRL
	)	
Debtor.	)	
	)	
	)	
LEGRANDE HOSPITALITY, LLC d/b/a	)	
JUICE WINE PURVEYORS,	)	
	)	
Plaintiff,	)	ADVERSARY PROCEEDING
	)	NO: 09-00167-8-JRL
vs.	)	
	)	
ROBERT CHRISTIAN PEEL,	)	
	)	
Defendant.	)	
	)	

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**DEFENDANT’S MOTION TO DISMISS AMENDED COMPLAINT**

NOW COMES the defendant-debtor, Robert Christian Peel, through counsel, and respectfully moves the Court to dismiss the Amended Complaint filed by plaintiff LeGrande Hospitality, LLC d/b/a Juice Wine Purveyors pursuant to Federal Rule of Civil Procedure 12(b)(6), made applicable to this proceeding by Federal Rule of Bankruptcy Procedure 7012(b)(6), on the grounds that the factual allegations of the Complaint, even if accepted as true and with Plaintiff receiving the benefit of all factual inferences, fail to state a claim upon which relief can be granted.

The Court entered its Order Allowing Motion for Judgment on the Pleadings on February 19, 2010 (the “Order”). The Order granted Plaintiff until March 19, 2010, to file an amended complaint. On March 19, 2010, Plaintiff filed its Amended Complaint. The Amended Complaint asserts only one claim for relief, 11 U.S.C. § 523(a)(2)(A), and abandons the claim asserted in the original Complaint under 11 U.S.C. § 523(a)(6).

The Amended Complaint should be dismissed because it fails to cure the deficiencies identified in the Order. Specifically, "to the extent that any alleged misrepresentations were statements respecting the financial condition of Mr. Peel or Carolina Wine Company, there are no allegations of any writings." (Order p. 4). The allegations of the Amended Complaint, even when viewed in the light most favorable to Plaintiff, amount to nothing more than oral representations concerning the financial condition or future intentions of Mr. Peel or Carolina Wine Company and, thus, do not state a claim for which relief can be granted under section 523(a)(2)(A).

Respectfully submitted, this the 29th day of March, 2010.

/s/ James M. Hash  
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**Certificate of Service**

I, James M. Hash, do hereby certify that a true copy of the foregoing **Motion to Dismiss** was served on the following parties via U.S. Mail, first class:

John Walter Bryant  
Amber I. Hayles  
J.W. Bryant Law Firm, PLLC  
Post Office Drawer 909  
Raleigh, NC 27602

Respectfully submitted, this the 29th day of March, 2010.

/s/ James M. Hash  
James M. Hash